

187415

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BENJAMIN P. MUSTIAN  
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July 25, 2007

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TELEPHONE 252-3300  
TELECOPIER 256-8062

TRACEY C. GREEN  
SPECIAL COUNSEL

\*ALSO ADMITTED IN TX  
\*\*ALSO ADMITTED IN VA

**VIA HAND-DELIVERY**

The Honorable Charles L.A. Terreni  
Chief Clerk/Administrator  
**Public Service Commission of South Carolina**  
101 Executive Center Drive  
Columbia, South Carolina 29210

RECEIVED  
2007 JUL 25 PM 3:33  
SC PUBLIC SERVICE  
COMMISSION

RE: Application of Carolina Water Service, Inc. for approval of a contract with  
Suburan Development and Associates, Inc. to serve SDA Apartments

Dear Mr. Terreni:

Enclosed for filing are the original and ten (10) copies of the Application of Carolina Water Service, Inc., in the above-referenced matter. Also enclosed you will find the Applicant's proposed notice of filing and hearing. By copy of this letter, I am serving a copy of these documents upon the Executive Director of the Office of Regulatory Staff and enclose a Certificate of Service to that effect.

I would appreciate your acknowledging receipt of this Application and Certificate by date-stamping the extra copies that are enclosed and returning it to me via our courier.

If you have any questions or if you need any additional information, please do not hesitate to contact us.

Sincerely,

**WILLOUGHBY & HOEFER, P.A.**



Benjamin P. Mustian

BPM/twb  
Enclosures  
cc: Honorable C. Dukes Scott

RECEIVED  
2007 JUL 25 PM 3:33  
SC PUBLIC SERVICE  
COMMISSION

**BEFORE**  
**THE PUBLIC SERVICE COMMISSION OF**  
**SOUTH CAROLINA**

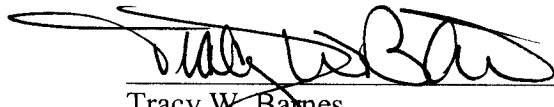
**DOCKET NO. 2007-278 -W**

IN RE: )  
)  
Application of Carolina Water Service, )  
Inc. for approval of a contract with )  
Suburan Development and Associates, )  
Inc. to serves SDA Apartments. )  
\_\_\_\_\_ )

**CERTIFICATE OF SERVICE**

This is to certify that I have caused to be served this day one (1) copy of the **Application** by placing same in the care and custody of the United States Postal Service with first class postage affixed thereto and addressed as follows:

Honorable C. Dukes Scott  
**Office of Regulatory Staff**  
Post Office Box 11263  
Columbia, South Carolina 29211

  
\_\_\_\_\_  
Tracy W. Barnes

Columbia, South Carolina  
This 25<sup>th</sup> day of July, 2007.

**BEFORE**  
**THE PUBLIC SERVICE COMMISSION OF**  
**SOUTH CAROLINA**  
**DOCKET NO. 2007-218-W**

RECEIVED  
2007 JUL 25 PM 3:33  
SC PUBLIC SERVICE  
COMMISSION

IN RE: )  
 )  
Application of Carolina Water Service, )  
Inc. for approval of a contract with )  
Suburan Development and Associates, )  
Inc. to serve SDA Apartments )  
\_\_\_\_\_ )

**APPLICATION**

Carolina Water Service, Inc. ("Applicant" or "Utility") hereby submits a contract between it and Suburan Development and Associates, Inc. ("Developer") for consideration by this Honorable Commission under Vol. 26 S.C. Code Ann. Regs. R. 103-743 (State Register Volume 31, Issue No. 5 eff. May 27, 2007). In support of this Application, Applicant would respectfully show as follows:

1. Applicant is a public utility currently authorized to operate water and wastewater systems under the jurisdiction of the Public Service Commission of South Carolina ("Commission") in Aiken County, as well as certain other counties in this state. Its corporate charter is presently on file with the Commission and an appropriate bond has been posted with same. A schedule of the current rates and charges for Applicant's water and wastewater service has previously been approved by the Commission in Docket No. 2004-357-W/S by way of Order No. 2007-135, dated March 1, 2007. Additionally, CWS has implemented rates and charges

under bond in accordance with Order No. 2007-230 dated April 5, 2007, issued in Docket No. 2006-92-W/S.<sup>1</sup>

2. The Applicant seeks approval of an agreement entered into between Applicant and the Developer dated July 9, 2007 ("Agreement"), a copy of which is attached hereto and incorporated herein by reference as Exhibit "A." Under Article IV, § 1 of the Agreement, Applicant will provide water utility service to the proposed development pursuant to all of the terms, conditions, rates and charges set forth in its existing rate schedule as are on file with this Commission and in effect from time to time.<sup>2</sup>

3. Pursuant to this agreement, Applicant proposes to serve the "SDA Apartments" ("Development") which will consist of a three building, sixteen-(16) unit, multi-family apartment complex when completed. The Agreement provides, *inter alia*, that Developer will construct all of the necessary water distribution facilities ("Facilities") required to serve the Development, interconnect the facilities with the Utility's existing water systems, acquire all necessary easements and rights-of-way ("Easements") and convey such Facilities and Easements to Applicant. Performance of the Agreement is conditioned upon its approval by this Commission.

4. The proposed development is within Applicant's Commission authorized Service Area in Aiken County. Accordingly, no other public utility is authorized to serve the proposed development.

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<sup>1</sup> As the Commission is aware, the Commission denied Applicant's request in Docket No. 2006-92-W/S by way of Order No. 2006-543 dated October 2, 2006. Applicant subsequently petitioned the Commission for reconsideration or rehearing of that Order. On November 27, 2006, the Commission issued a directive denying that petition and approving Applicant's request to place rates into effect under bond. On April 5, 2007, the Commission issued its order approving a bond which permitted CWS to place rates into effect as allowed by S.C. Code Ann. Section 58-5-240(D) (Supp. 2005). As of the date of this application, the Commission has not yet issued its order denying CWS's petition for reconsideration or rehearing.

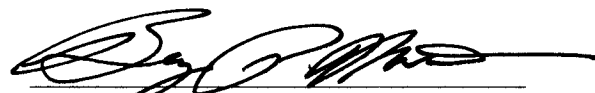
<sup>2</sup> Thus, upon any subsequent revisions to rates resulting from any appeal which may be taken from Commission orders in Docket No. 2006-92-W/S, the rates to be charged in the proposed development would change.

5. Pursuant to Article II, §17 of the Agreement, Developer has agreed to pay to the Utility service connection and plant impact fees for the Development based upon an estimated sixteen (16) single family equivalents and, pursuant to Article II, § 16 of the Agreement, Applicant has agreed to reserve adequate utility capacity for up to sixteen (16) water connections located within the Property. Applicant submits that this provision is warranted and in the public interest as the terms of this contract allow the utility to adequately engage in planning for operations.

6. Applicant submits that the public convenience and necessity will be served by the approval of this Agreement. Applicant further submits that no hearing in this matter is required. See S.C. Code Ann. § 58-5-240(G) (Supp.2006).

7. All correspondence and communications regarding this matter should be sent to the undersigned.

WHEREFORE, having fully set forth its Application, Applicant prays that the Agreement be approved, that a hearing on the within matter be waived or review of the within application be expedited, and that Applicant be granted such other and further relief as the Commission may deem just and proper.



John M.S. Hoefer  
Benjamin P. Mustian  
**Willoughby & Hoefer, PA**  
Post Office Box 8416  
Columbia, South Carolina 29202-8416  
803-252-3300

Attorneys for Applicant

Columbia, South Carolina  
This 25<sup>th</sup> day of July, 2007

SL

AGREEMENT FOR WATER SERVICESDA APARTMENTSAIKEN COUNTY, SC

This Agreement is entered into this 9<sup>th</sup> day of July, 2007 by and between Suburan Development and Associates, Inc., (hereinafter referred to as "Developer"), and Carolina Water Service, Inc., a Delaware corporation authorized to do business in South Carolina (hereinafter referred to as "Utility").

WITNESSETH

WHEREAS, the Developer is the owner of a certain real estate parcel containing approx. 1.26 acres (Tax Parcel No. 123-15-09-005) located on the northwest corner of the Hunters Glen Road and Old Dominion Road intersection, in Aiken County, South Carolina, hereinafter referred to as the "Property" (see "Exhibit 1"); and,

WHEREAS, Developer desires to develop the Property into a residential development to be called "SDA Apartments," which will consist of a three building, sixteen-(16) unit, multi-family apartment complex when completed; and,

WHEREAS, Utility is a public utility engaged in the business of furnishing water service to the public in its designated Hunters Glen Service Area located in Aiken County and Property is located within the service area. The Utility desires to have constructed and installed, and the Developer desires to construct and install, the water distribution facilities to serve the Property subject to the terms and conditions of this Agreement; and,

WHEREAS, Developer desires Utility to provide water utility service to the Property and Utility desires to provide water utility service subject to the terms and conditions of this Agreement.

NOW, THEREFORE, in consideration of the mutual covenants as hereinafter set forth, the parties hereto agree as follows:

ARTICLE IRepresentations and Warranties of Developer

Developer represents and warrants that:

1. Developer is the owner of or is duly authorized to act on behalf of the owner(s) of the Property; and,
2. Developer will cooperate fully with the Utility in any and all applications or petitions to public authorities deemed necessary or desirable by Utility in connection with the construction and installation of the Facilities contemplated by this Agreement; and,
3. Developer will convey to the Utility or otherwise vest in the Utility such right, title and interest in and to such real estate as may be reasonably necessary to permit the Utility to carry out the terms and conditions of this Agreement; and,
4. Developer will convey to Utility or provide by recorded subdivision plats such easements or rights of way as the Utility may reasonably require for the Utility's performance of its obligations under this Agreement. Any such plats, conveyances or licenses will be in form reasonably satisfactory to Utility's legal counsel.

## ARTICLE II

### Obligations and Construction of Facilities by Developer

1. Facilities  
Developer shall construct and install all necessary water distribution facilities to serve the Property, including but not limited to tapping saddles, valves, service lines, meter boxes, master meters, and/or other facilities as are reasonably required to provide adequate water service (herein referred to as the "Facilities"). If a water distribution main extension is necessary, the main will have a minimum diameter of six (6) inches, except where otherwise approved by Utility. Developer shall interconnect the Facilities to Utility's water system at a point as determined by Utility.
2. All materials used by the Developer for said Facilities shall be new, first-class, and suitable for the uses made thereof. Developer guarantees all construction, materials, workmanship, and the trouble-free operation of the Facilities (or any portion of the Facilities) for one year after the Facilities (or such portion of the Facilities) are placed in service.
3. All Facilities constructed and installed by Developer pursuant to this Article II shall be constructed and installed without cost or expense to Utility.

4. All plans, specifications and construction of the Facilities shall be in accordance with applicable standards, requirements, rules and regulations of all governmental bodies and regulatory agencies which may have jurisdiction thereover, and shall have received the written approval of Utility before construction is begun, which approval shall not be unreasonably withheld or delayed.
5. Developer shall save and hold Utility harmless from and against all suits or claims that may be based upon any injury to any person or property that may occur in the course of the performance of the construction of the Facilities by Developer or by anyone acting on Developer's behalf, or under Developer's supervision and control, including but not limited to claims made by employees of Developer, and Developer shall, at its own cost and expense, pay all costs and other expenses arising therefrom, or incurred in connection therewith, including reasonable attorneys' fees.
6. Developer shall obtain, with cooperation from Utility, all requisite permits, zoning, and other approvals required to construct the Facilities.
7. All of the Facilities installed by Developer pursuant to this Agreement shall become the property of Utility as installed up to and including the master meters, without cost or expense to Utility, with the exception of any on-site service lines installed after the master meters for which the Developer shall retain ownership and maintenance responsibility. Developer shall execute all conveyances, licenses and other documents reasonably requested by Utility as necessary or desirable in its opinion to ensure its ownership of, ready access to, and operation and maintenance of the Facilities.
8. Developer shall furnish Utility with lien waivers in a form reasonably satisfactory to Utility's counsel from Developer and from all suppliers, subcontractors and all other who furnish labor, equipment, materials, rentals, or who perform any services in connection with Facilities construction herein.
9. Developer agrees to provide to Utility documentary evidence, in form satisfactory to Utility, sufficient to establish the original cost of the Facilities. Utility shall have, at all times, all right, title and interest in and to the Facilities.
10. Developer shall not have the right to connect the on-site service lines to the Facilities until such time as the Facilities have been formally accepted by the Utility; written approvals have been received from all governmental bodies and regulatory agencies,



which may have jurisdiction thereover; and, all applicable connection fees have been paid.

11. All connections must be inspected by the Utility prior to backfilling and covering of any pipes. Written notice to the Utility requesting an inspection of a connection shall be made at least forty-eight (48) hours in advance of the inspection, excluding weekends and official Utility holidays.
12. Should the Developer fail to comply with the foregoing inspection provisions, Utility may refuse service to a connection until such time as the appropriate inspections have been completed.
13. Developer shall, prior to the transfer to Utility of the Facilities, grant permanent, assignable easements satisfactory to Utility, without cost or expense to Utility, authorizing Utility to own, operate and maintain the Facilities throughout the Property and providing reasonably adequate rights of access and working space for such purposes.
14. Developer shall, upon transfer to Utility of the Facilities, provide to Utility as-built drawings (by both hard copy and electronic copy), permits, and all other information reasonably required to operate, maintain, and repair the Facilities.
15. Developer shall submit to Utility upon execution of this Agreement a Plan Review Fee of three hundred dollars (\$300) for each phase of the development. Developer shall, prior to the final acceptance of each development phase, or portions thereof, submit to Utility a one hundred fifty dollar (\$150) Inspection Fee. Should the Facilities require additional inspection(s) due to improper installation, defective or unapproved materials, the Developer shall pay one hundred fifty dollars (\$150) for each additional inspection required.
16. Upon Developer's satisfaction of its obligations under this Agreement, Utility agrees to reserve adequate utility capacity for up to sixteen-(16) water connections located within the Property.
17. Developer shall pay and deliver to Utility upon the execution of this Agreement the sum of money which is the non-recurring service connection and plant impact fees ("Tap Fees") provided for under Utility's rate schedule, as may be approved by the Public Service Commission of South Carolina and in effect from time to time, multiplied by the Single Family Equivalent ("SFE") rating set forth therein. For the project which is the

subject of this Agreement, that sum shall be \$11,200.00, which is based upon an estimated 16 SFEs and the Utility's current rate schedule. Should it be determined that the project contemplated by this Agreement consists of a greater number of SFEs than is estimated hereinabove, then and in that event Developer shall be required to pay an additional sum to Utility for each additional SFE using the calculation provided for hereinabove. In addition Developer agrees that it will not represent to any third party that utility service is available from Utility for use within the proposed development except (1) upon Developer's payment of the Tap Fees as provided hereinabove, and (2) establishment of service and an account between said third party and Utility, including payment of all fees and charges authorized under the Utility's approved rate schedule excepting tap fees.

### ARTICLE III

#### Representations and Warranties of Developer

1. Neither Developer nor any entity or individual affiliated with Developer has executed or will execute any agreement with any lot purchaser in the Property, or any other parties or made any representations to any such purchasers or other parties whereunder such purchaser or other parties have acquired any interest in Facilities to be installed under this Agreement.

### ARTICLE IV

#### Utility Services, Connection Fees, Rates and Charges

1. Prior to the commencement of utility service, Developer is responsible for the payment to Utility of water tap-on or connection fees at the rate as in effect from time to time prior to the provision of utility service to any unit within the Property. Such fees, usage and all other incidental rates and charges shall be rendered by Utility in accordance with Utility's rates, rules and regulations and conditions of service on file with the South Carolina Public Service Commission (the "Commission") from time to time and then in effect. Capacity shall not be reserved for any units for which the tap fee has not been paid.
2. Upon installation and acceptance of the Facilities and payment of all applicable connection fees, Utility agrees to supply all customers within the Property with adequate

and customary water service and to operate, maintain and repair all Facilities as indicated herein, after acceptance by Utility and issuance of operational approvals by all regulatory authorities.

#### ARTICLE V

##### Commission Approval

1. Within thirty (30) days following the execution of this Agreement, Utility will file a petition with the Commission requesting approval of this Agreement, if necessary.

All terms and conditions contained herein are subject to Utility receiving said approvals from the Commission.

#### ARTICLE VI

##### General

1. Except as provided in this Agreement, neither party to this Agreement shall be liable to the other for failure, default or delay in performing any of its obligations hereunder, if such failure, default or delay is caused by strikes or other labor problems, by forces of nature, unavoidable accident, fire, acts of the public enemy, interference by civil authorities, acts or failure to act, decisions or orders or regulations of any governmental or military body or agency, office or commission, delays in receipt of materials, or any other cause, whether of similar or dissimilar nature, not within the control of the party affected and which, by the exercise of due diligence, such party is unable to prevent or overcome, except as otherwise provided for herein. Should any of the foregoing events occur, the parties hereto agree to proceed with diligence to do what is reasonable and necessary so that each party may perform its obligations under this Agreement.
2. The failure of either party hereto to enforce any of the provisions of this Agreement or the waiver thereof in any instance by either party shall not be construed as a general waiver or relinquishment on its part of any such provisions, but the same shall, nevertheless, be and remain in full force and effect.
3. The representations, warranties and agreements contained herein shall survive, and continue in effect. Utility agrees to indemnify Developer, its successors and assigns, and hold Developer harmless against any loss, damage, liability, expense or cost accruing or

resulting from any misrepresentations or breach of any representation, warranty or agreement on the part of Utility under this Agreement. Developer agrees to indemnify Utility, its successors and assigns, and hold it and them harmless against any loss, damage, liability, expense or cost of Utility, accruing or resulting from any misrepresentation or breach of any representation, warranty or agreement on the part of Developer under this Agreement or from any misrepresentation in or material omission from any certificate or other document furnished or to be furnished to Utility by Developer.

4. This Agreement sets forth the complete understanding between Developer and Utility, and any amendments hereto to be effective must be made in writing.
5. Notices, correspondence and invoicing required hereunder shall be given to Developer and to Utility at the following addresses, or at any other addresses designated in writing by either party subsequent to the date hereof:

If to Utility:

Carolina Water Service, Inc.  
2335 Sanders Road  
Northbrook, Illinois 60062  
Attn: Ms. Lisa Crossett  
Chief Operating Officer

If to Developer:

Suburan Development and Associates, Inc.  
PO Box 5934  
Aiken, SC 29804-5934  
Attn: Mr. Duwayne Trowell

Delivery when made by registered or certified mail shall be deemed complete upon mailing. Delivery by overnight courier shall be deemed complete when delivered.

6. This Agreement may not be assigned by Developer without the written approval of Utility, which approval shall not be unreasonably withheld. This Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective successors and assigns.
7. This Agreement shall be governed by the laws of the State of South Carolina.
8. If this Agreement is not executed prior to **July 6, 2007**, then the terms and conditions contained herein will be waived, with no further obligations or responsibilities to either party.

IN WITNESS WHEREOF, the parties hereto have set their seals the day and year  
above first written.

Carolina Water Service, Inc

By: [Signature]

Its: VICE PRESIDENT

Witness/Attest:

\_\_\_\_\_  
\_\_\_\_\_

Suburan Development and Associates, Inc.

By: [Signature]

Its: President 6/29/07

Witness/Attest:

[Signature]

\_\_\_\_\_  
Notary Public, South Carolina  
My Commission Expires January 2, 2014

123 15 07 005

123 15 07 005

123 16 01 001

123 15 06 001

123 15 07 101

Deep Run Rd

HUNTSBOLT

123 15 09 005

123 16 13 001

123 15 13 004

Old Denton Rd

123 15 14 001

123 15 10 003

123 15 10 003

123 15 10 001

123 16 12 001

DISCLAIMER : Aiken County makes no warranty, representation or guaranty as to the content, sequence, accuracy or timeliness of the database information provided herein. Users of this data are hereby notified that the public information sources should be consulted for verification of the information contained on these maps. Aiken County assumes no liability for any errors, omissions or inaccuracies in the information provided regardless of how caused, OR, for any decision made or action taken or not taken by any person in reliance upon any information or data furnished herein.

6/1/2007

PUBLIC SERVICE COMMISSION OF SOUTH CAROLINA

DOCKETING DEPARTMENT

NOTICE OF FILING

DOCKET NO. 2007-\_\_\_\_-W

Application of Carolina Water Service, Inc. for Approval of a Contract with Suburan Development and Associates, Inc. to Serve SDA Apartments.

Carolina Water Service, Inc. ("Applicant" or "Utility") has filed an application with the Public Service Commission of South Carolina ("Commission") pursuant to 26 S.C. Code Ann. Regs. 103-743 for approval of a contract between it and Suburan Development and Associates, Inc. ("Developer") to serve SDA Apartments.

The Applicant is a public utility currently authorized to operate water and wastewater systems under the jurisdiction of the Commission in Aiken County, as well as certain other counties in the state. The Applicant and Developer have entered into an agreement dated July 9, 2007 for water utility service provided by the Applicant.

According to the Application, the Utility proposes to serve the SDA Apartments ("Development") which will consist of a three building, sixteen-(16) unit, multi-family apartment complex when completed. The Agreement provides, *inter alia*, that the Developer will construct all of the necessary water distribution facilities ("Facilities") required to serve the Development, interconnect the Facilities with the Utility's existing water systems, acquire all necessary easements and rights-of-way ("Easements") and convey such Facilities and Easements to the Applicant.

The Application reveals that the proposed development is within the Applicant's Commission authorized service area in Aiken County.

A copy of the Company's Application can be obtained from the Commission at the following address: Public Service Commission of South Carolina, Docketing Department, 101 Executive Center Drive, Columbia, South Carolina 29210. Additionally, the Application is available on the Commission's website at [www.psc.sc.gov](http://www.psc.sc.gov) and is available from Benjamin P. Mustian, Esquire, Willoughby & Hoefer, P.A., Post Office Box 8416, Columbia, South Carolina 29202-8416.

A public hearing, if scheduled, will be held in the Commission's Hearing Room, Synergy Business Park, Saluda Building, 101 Executive Center Drive, Columbia, South Carolina, for the purpose of receiving testimony and other evidence from all interested parties regarding this Application. The time and date of this hearing will be furnished to all interested parties at a later date.

Any person who wishes to participate in this matter, as a party of record with the right of cross-examination should file a Petition to Intervene in accordance with the Commission's Rules of Practice and Procedure on or before \_\_\_\_\_, 2007, and indicate the amount of time required for his presentation. Please include an email address for receipt of future Commission correspondence in the Petition to Intervene. ***Please refer to Docket No. 2007-\_\_\_\_-W.***

Any person who wishes to testify and present evidence at the hearing, if scheduled, should notify the Docketing Department, in writing, at the address below, the Office of Regulatory Staff, at Post Office Box 11263, Columbia, South Carolina 29211 and Benjamin P. Mustian, Esquire, at the above address, on or before \_\_\_\_\_, 2007, and indicate the amount of time required for his presentation. ***Please refer to Docket No. 2007-\_\_\_\_-W.***

Docket No. 2007-\_\_\_\_-W  
Carolina Water Service, Inc.  
Notice of Filing – Page 2

Any person who wishes to be notified of the hearing, but does not wish to present testimony or be a party of record, may do so by notifying the Docketing Department, in writing, at the address below on or before \_\_\_\_\_, 2007.  
*Please refer to Docket No. 2007-\_\_\_\_-W.*

**PLEASE TAKE NOTICE:** Any person who wishes to have his or her comments considered as part of the official record of this proceeding **MUST** present such comments, in person, to the Commission during the hearing.

Persons seeking information about the Commission's Procedures should contact the Commission at (803) 896-5100.

Public Service Commission of South Carolina  
Attn: Docketing Department  
Post Office Drawer 11649  
Columbia, South Carolina 29211

\_\_\_\_/\_\_\_\_/07  
cba